

1 RENE L. VALLADARES
2 Federal Public Defender
3 Nevada State Bar No. 11479
4 RICK MULA
5 Assistant Federal Public Defender
6 411 E. Bonneville, Ste. 250
7 Las Vegas, Nevada 89101
8 (702) 388-6577/Phone
9 (702) 388-6261/Fax
10 Rick_Mula@fd.org

11 Attorney for Kenneth Lee Smith, II

12 **UNITED STATES DISTRICT COURT**
13 **DISTRICT OF NEVADA**

14 UNITED STATES OF AMERICA,

15 Plaintiff,

16 v.

17 KENNETH LEE SMITH, II,

18 Defendant.

19 Case No. 2:23-mj-00675-DJA

20 **ORDER TO CONTINUE
MOTION DEADLINES AND BENCH
TRIAL**
21 (Second Request)

22 IT IS HEREBY STIPULATED AND AGREED, by and between Jason M. Frierson,
23 United States Attorney, and Imani Dixon, Assistant United States Attorney, counsel for the
24 United States of America, and Rene L. Valladares, Federal Public Defender, and Rick Mula,
25 Assistant Federal Public Defender, counsel for Kenneth Lee Smith, II, that the bench trial
26 scheduled for February 14, 2024 at 9:00 am, be vacated and set to a date and time convenient
to this Court, but no sooner than sixty (60) days.

IT IS FURTHER STIPULATED AND AGREED, that the parties herein shall have to
and including March 5, 2024, to file any and all pretrial motions and notices of defense.

IT IS FURTHER STIPULATED AND AGREED, by and between the parties, that they
shall have to and including March 19, 2024, to file any and all responsive pleadings.

1 IT IS FURTHER STIPULATED AND AGREED, by and between the parties, that they
2 shall have to and including March 26, 2024, to file any and all replies to dispositive motions.

3 The Stipulation is entered into for the following reasons:

4 1. Defense counsel requires additional time to review the discovery in this case and
5 negotiate a potential resolution.

6 2. The defendant is out of custody and does not object to the continuance.

7 3. The parties agree to the continuance.

8 4. The additional time requested herein is not sought for purposes of delay, but
9 merely to allow counsel for defendant sufficient time within which to be able to effectively and
10 complete investigation of the discovery materials once they are provided.

11 5. Additionally, denial of this request for continuance could result in a miscarriage
12 of justice. The additional time requested by this Stipulation is excludable in computing the time
13 within which the trial herein must commence pursuant to the Speedy Trial Act, Title 18, United
14 States Code, Section 3161(h)(7)(A), considering the factors under Title 18, United States Code,
15 Section 3161(h)(7)(B)(i), (iv).

16 This is the second stipulation to continue filed herein.

17 DATED this 5th day of January, 2024.

18 RENE L. VALLADARES
19 Federal Public Defender

JASON M. FRIERSON
United States Attorney

20 By /s/ Rick Mula

21 By /s/ Imani Dixon

RICK MULA
21 Assistant Federal Public Defender

IMANI DIXON
22 Assistant United States Attorney

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,
Plaintiff,
v.
KENNETH LEE SMITH II,
Defendant.

Case No. 2:23-mj-00675-DJA

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

FINDINGS OF FACT

Based on the pending Stipulation of counsel, and good cause appearing therefore, the Court finds that:

6. Defense counsel requires additional time to review the discovery in this case and negotiate a potential resolution.

7. The defendant is out of custody and does not object to the continuance.

8. The parties agree to the continuance.

9. The additional time requested herein is not sought for purposes of delay, but merely to allow counsel for defendant sufficient time within which to be able to effectively and complete investigation of the discovery materials once they are provided.

10. Additionally, denial of this request for continuance could result in a miscarriage of justice. The additional time requested by this Stipulation is excludable in computing the time within which the trial herein must commence pursuant to the Speedy Trial Act, Title 18, United States Code, Section 3161(h)(7)(A), considering the factors under Title 18, United States Code, Section 3161(h)(7)(B)(i), (iv).

CONCLUSIONS OF LAW

The ends of justice served by granting said continuance outweigh the best interest of the public and the defendant in a speedy trial, since the failure to grant said continuance would be likely to result in a miscarriage of justice, would deny the parties herein sufficient time and the opportunity within which to be able to effectively and thoroughly prepare for trial, taking into account the exercise of due diligence.

The continuance sought herein is excludable under the Speedy Trial Act, Title 18, United States Code, Section § 3161 (h)(7)(A), when the considering the factors under Title 18, United States Code, § 3161(h)(7)(B)(i), (iv).

ORDER

IT IS THEREFORE ORDERED that the parties herein shall have to and March 5, 2024 to file any and all pretrial motions and notice of defense.

IT IS FURTHER ORDERED that the parties shall have to and including March 19, 2024 to file any and all responses.

IT IS FURTHER ORDERED that the parties shall have to and including March 26, 2024 to file any and all replies.

IT IS FURTHER ORDERED that the bench trial currently scheduled for February 14, 2024, at the hour of 9:00 a.m., be vacated and continued to April 24, 2024, at 9:00 a.m., Courtroom 3A.

DATED this 8th day of January, 2024.

DANIEL J. ALBREGTS
United States Magistrate Judge